Docket No.: R2184.0506/P506
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Masaki Kato et al.

Application No.: Not Yet Assigned

Confirmation No.: N/A

Filed: Concurrently Herewith

Art Unit: N/A

For: OPTICAL DISK, RECORDING METHOD, RECORDING MEDIUM, AND OPTICAL DISK UNIT

Examiner: Not Yet Assigned

PETITION TO MAKE SPECIAL (M.P.E.P. § 708.02(VIII))

MS Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Submitted herewith is a Petition to Make Special for the above-identified patent application.

1. Petition:

Applicants hereby petition to make the above-identified application special pursuant to 37 C.F.R. § 1.102(d) and M.P.E.P. § 708.02(VIII). The application has not yet been examined.

06/19/2006 GFREY1 00000142 10582481
06 FC:1464 130.00 OP

2. Claims:

(a) All of the claims pending in the present application (i.e., claims 1-30) are directed to a single invention.

(b) If the Office determines that all the claims presented are not obviously directed to a single invention, Applicants will make an election without traverse as a prerequisite to the grant of the requested special status.

3. Search:

A pre-examination search was made, in the art classifications believed to be most relevant to the claimed invention (see attached European Search Report). The pre-examination search was directed to the invention as claimed in the present application (i.e., claims 1-30). The search included International Patent Class G11B. International Class G11 is "Information Storage," and G11B is "Information Storage Based On Relative Movement Between Record Carrier And Transducer."

4. References:

The documents uncovered in the search are cited on the attached Form PTO/SB/08.[1] The Office is requested to consider all of the documents and to make them of record using the attached Form PTO/SB/08. Among the listed references, the document deemed most closely related to the subject matter encompassed by the present claims (i.e., claims 1-30) is listed and discussed in detail below:

[1] Copies of the documents discussed in this Petition are enclosed herewith, pursuant to M.P.E.P. § 708.02(VIII).

Patent Document	Dated
US 2005/013223	January 20, 2005
WO 2004/114289	December 29, 2004
EP 1 318 509	June 11, 2003

Applicants reserve the right to establish, where applicable, that one or more of the above documents does not represent prior art against the present invention.

5. Characteristics of the Present Invention:

The independent claims (i.e., 1, 8, and 15) of the present invention are characterized by having at least the following configurations:

(a) Claim 1

The recording method of claim 1 uses a laser on a multilayer optical disk having a plurality of recording layers including a first and a second recording layer. Moreover, the method recites, if a second region of a second test writing area of the second recording layer is unrecorded, recording data in the second region of the second test writing area, thereby converting the second region of the second test writing area into a recorded state. The method further comprises the step of, once the second region of the second test writing area has been converted into a recorded state, performing test writing in a first region of a first test writing area of the first recording layer.

(b) Claim 8

The apparatus arranged to record information to a multilayer optical disk of claim 8 is characterized by having a plurality of recording layers including a first and a second recording layer. Moreover, if a second region of a second test writing area of

the second recording layer is unrecorded, the apparatus is arranged to record data in the second region of the second test writing area, thereby converting the second region of the second test writing area into a recorded state. Once the second region of the second test writing area has been converted into a recorded state, the apparatus is arranged to perform test writing in a first region of a first test writing area of the first recording layer.

(c) Claim 15

The single-sided multilayer optical disk of claim 15 is characterized by a plurality of information recording layers, wherein a test writing area to be used for calibration of write power is provided in each recording layer, and the test writing areas of adjacent two recording layers are superposed at least partially on each other.

6. Discussion of the References:

a.) U.S. Patent Application No. 2005/013223

U.S. Patent Application No. 2005/013223 (hereinafter "the '223 application") relates to an information storage medium, which minimizes an influence of an optimal power control (OPC) process executed in an OPC area included in information storage layers upon other information storage layers of the information storage medium. The apparatus includes OPC areas in odd-numbered and even-numbered information storage layers disposed not to contact each other, or partially overlap each other and lock out use of the overlapped portion. The '223 application does not teach or suggest a first region superposed on a second region, and recording data in the second region and test writing in the first region.

Claim 1 recites a "recording method using a laser on a multilayer optical disk having a plurality of recording layers including a first recording layer and a second recording layer, the second recording layer ... adjacent the first recording layer, the first recording layer having a first test writing area to be used for calibration of write power and the second recording layer having a second test writing area to be used for calibration of write power." Claim 1 further recites that "a first region of the first test writing area is superposed with a second region of the second test writing area when considered in the direction in which the laser is arranged to irradiate" (emphasis added). Moreover, claim 1 recites that "if the second region of the second test writing area of the second recording layer is unrecorded, recording data in the second region of the second test writing area, thereby converting the second region of the second test writing area into a recorded state" (emphasis added). Claim 1 further includes that "once the second region of the second test writing area has been converted into a recorded state, performing test writing in the first region of the first test writing area" (emphasis added). The '223 application discloses that "OPC areas in odd-numbered and even-numbered information storage layers are disposed ... not to contact each other, or partially overlap each other and lock out use of the overlapped portion." '223 application abstract (emphasis added). Accordingly, the '223 application fails to disclose, teach, or suggest the claim 1 method.

Similarly, the '223 application does not disclose an apparatus capable of recording in such a manner. Claim 8 recites an "[a]pparatus arranged to record information to a multilayer optical disk having a plurality of recording layers using a laser," having similar limitations as claim 1. The clock cycle does not change between recording layers. As set forth above, the '223 application includes OPC areas in odd-numbered and even-numbered information storage layers disposed not to contact each other, or partially overlap each other and lock out use of the overlapped portion. The

'223 application fails to disclose, teach, or suggest a first region superposed on a second region, and recording data in the second region and test writing in the first region; as such, the '223 application fails to disclose, teach, or suggest the claimed invention.

Nor is claim 15 disclosed in the '223 application. Claim 15 recites a "single-sided multilayer optical disk comprising: a plurality of information rewritable recording layers each having a spiral track or concentric tracks formed thereon, wherein a test writing area to be used for calibration of write power is provided in each of the recording layers; and the test writing areas of adjacent two of the recording layers are superposed at least partly on each other in a view from a direction of incidence of a light beam." As discussed above, the '223 reference includes OPC areas in odd-numbered and even-numbered information storage layers disposed not to contact each other, or partially overlap each other and lock out use of the overlapped portion. The '223 application fails to disclose, teach, or suggest a first region superposed on a second region, and recording data in the second region and test writing in the first region. As such, the '223 application fails to disclose, teach or suggest the features of claim 15. Applicants respectfully submit that the '223 application fails to teach or suggest the limitations or the features of the present invention.

b.) PCT International Application Publication No. WO 2004/114289

PCT International Application Publication No. WO 2004/114289 (hereinafter "WO '289") relates to a writable optical record carrier. WO '289 discloses a recordable WORM-or RW-disc, comprising a plurality of recording layers, each recording layer comprising an optimum power calibration (OPC) area. WO '289 further relates to a method and an apparatus for forming OPC areas on a writable optical record carrier. The apparatus includes OPC areas arranged in a staircase pattern. WO '289 does not disclose, teach, or suggest a first region superposed on a second region, and recording

data in the second region and test writing in the first region. As such, WO '289 fails to disclose, teach or suggest the features of claims 1, 8, and 15. Accordingly, Applicants respectfully submit that WO '289 fails to teach or suggest the limitations or the features of the present invention.

c.) European Patent Application No. EP 1 318 509

European Patent Application No. EP 1 318 509 (hereinafter "EP '509") relates to an optical information recording medium, an optical information recording method and an optical information recording apparatus, for optically recording information. EP '509 discloses a first information recording layer on which information is to be recorded by laser light and a second information recording layer on which information is to be recorded by the laser light which has passed through the first information recording layer. The EP '509 application discloses a separation layer between the two recording layers. EP '509 does not disclose, teach, or suggest a first region superposed on a second region, and recording data in the second region and test writing in the first region. As such, EP '509 fails to disclose, teach or suggest the features of claims 1, 8, and 15. Accordingly, Applicants respectfully submit that EP '509 fails to teach or suggest the limitations or the features of the present invention.

7. Conclusion:

Pursuant to M.P.E.P. § 708.02(VIII), the foregoing discussion, with the particularity required by 37 C.F.R. § 1.111(b) and (c), distinguishes the claimed subject matter from these references and thus, is patentable over the respective documents. Applicants note, however, that there are also additional reasons why the claims should be allowable over the cited documents, in addition to those discussed above.

Moreover, Applicants reserve the right to establish, if and where applicable, that one or more documents do not represent prior art against the claimed invention.

8. Fee:

Please charge our Credit Card in the amount of $130.00 covering the fee set forth in 37 C.F.R. § 1.17(h). Credit Card Payment Form SB-2038, with a signature from an authorized cardholder, is enclosed. The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 04-1073, under Order No. R2184.0506/P506. A duplicate copy of this paper is enclosed.

Accordingly, Applicants request that this Petition to Make Special be granted and the application undergo accelerated examination.

Dated: June 12, 2006

Respectfully submitted,

By _____

Mark J. Thronson
Registration No.: 33,082
Gianni Minutoli
Registration No.: 41,198
Rachael Lea Leventhal
Registration No.: 54,266
DICKSTEIN SHAPIRO MORIN & OSHINSKY LP
2101 L Street NW
Washington, DC 20037-1526
(202) 785-9700
Attorneys for Applicant